

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOSEPH P. FRANKENBERRY,

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION
AND U.S. DEPARTMENT OF JUSTICE,

Defendants.

CIVIL ACTION NO. 3:08-1565

(JUDGE CAPUTO)

(MAGISTRATE JUDGE MANNION)

ORDER

NOW, this 21st day of March, 2012, after consideration of Magistrate Judge Mannion's Report and Recommendation (Doc. 71), Plaintiff's objections to the Report and Recommendation (Doc. 76), and Defendant's objections to the Report and Recommendation (Doc. 81), **IT IS HEREBY ORDERED** that the Magistrate Judge's Report and Recommendation is **REJECTED in part and ADOPTED in part** as follows:

(1) The Recommendation that Plaintiff's Motion for Summary Judgment (Doc. 20) be denied is **ADOPTED**.

(2) The Recommendation that Defendants' Motion for Summary Judgment (Doc. 29) be granted is **ADOPTED in part and REJECTED in part**:

(a) The Magistrate Judge's Recommendation that Defendants' Motion for Summary Judgment be granted as to the adequacy of Defendants' search, Frankenberg-58, Frankenberg-60, and to documents withheld pursuant to exemptions (b)(7)(D)-2, (b)(7)(E)-1, and (b)(7)(E)-3 is **ADOPTED**.

(b) The Magistrate Judge's Recommendation that Defendants' Motion for Summary Judgment be denied as to Frankenberg-54 is **REJECTED**. Defendants' Motion for Summary Judgment as to Frankenberg-54 is **GRANTED**.

(c) The Magistrate Judge's Recommendation that Defendants' Motion for Summary Judgment be denied as to documents withheld pursuant to exemption (b)(7)(E)-2, except for information related to FBI expenditures and Frankenberg-54, is **ADOPTED**. Defendants shall make a supplemental disclosure of these documents.

(d) The Magistrate Judge's Recommendation that Defendants' Motion for Summary Judgment be granted as to documents withheld pursuant to exemptions (b)(2), (b)(6), (b)(7)(C), and (b)(7)(D)-1 (except for Frankenberg-58 and Frankenberg-60) is **REJECTED**. Defendants shall review these documents to determine whether the information may properly be withheld pursuant to the claimed exemption. If

Defendants cannot properly invoke the claimed exemption, Defendants shall make a supplemental disclosure to Plaintiff. If Defendants continue to withhold any documents under these exemptions, Defendants shall provide additional evidence to the Magistrate Judge demonstrating the applicability of the claimed exemption.

(3) Plaintiff's Motion to Strike Defendants' Brief in Opposition to Plaintiff's Objections to Magistrate Judge's Report and Recommendation (Doc. 80) is **DENIED**.

(4) Plaintiff's Re-Newed Motion for Order Compelling Answer to Interrogatories (Doc. 72) is **held in abeyance** pending Magistrate Judge Mannion's recommendation as to whether Defendants properly withheld documents pursuant to exemptions (b)(2), (b)(6), (b)(7)(C), and (b)(7)(D)-1.

(5) This case is **RECOMMENDED** to Magistrate Judge Mannion for further proceedings.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge